

A large, semi-circular graphic on the left side of the slide. The top half shows the golden dome of the Indiana State Capitol against a yellow background. The bottom half shows the blue-tinted classical columns and pediment of the building.

Sales Tax Issues for Public Libraries

Presented by:

Mandi Shawarira

mshawarira@dor.in.gov

317-233-5163

317-233-5167 fax

Indiana Department of State
Revenue

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Indiana Department of Revenue



Classifying Libraries for Tax Purposes

IC 36-12-2-2 states that public libraries are municipal corporations as defined in IC 36-1-2-10.



Application of Indiana Sales/Use Tax to Municipal Corporations

Indiana Sales/Use Tax Information Bulletin #4 addresses sales to and purchases by local governments. Local governments include municipal corporations which include public libraries.

Sales and purchases of tangible personal property by public libraries are subject to Indiana sales/use tax if these transactions relate to proprietary activities.





Proprietary Activities

An activity is proprietary when:

It is not necessary in the performance of a library's governmental functions of lending books, providing reference materials, providing access to the internet, providing free public meeting space, etc. and;

It is a business activity competing with the private sector.



Examples of Taxable Sales

- Sales of books if purchased for resale and not purchased for the library's exempt function of loaning books to patrons
- Sales of library-branded items
- Sale of USB drives
- Sales of taxable food and beverages such as soft drinks and candy
- Vending machine sales
- Sales of prepared meals for immediate consumption by the purchaser





Examples on Non-Taxable Sales

- Public printing from library computers, microfiche and photocopies
- Copies made by library staff and sent to another branch or to a patron
- Cost of replacing a lost library card
- Amount charged for a reserved item that a patron fails to pick up
- Barcode replacement
- Restocking fee for lost or damaged items
- Debt collection fee
- Public library access card
- Non-resident borrower's card



Accommodations

An accommodation is a space, facility or structure intended for occupancy by humans for a period of less than 30 days.

If a library charges patrons for the use of meeting rooms, the charge is taxable unless the patron is a non-profit user.





Exempt Sales by Libraries

Sales of books originally purchased and used by the library for lending to patrons qualify as exempt casual sales. [45 IAC 2.2-1-1(d)]

If a library charges patrons a fee for photocopies made of library materials, the charges are exempt because this is considered an exempt governmental function.



Purchases by Public Libraries

Purchases of tangible personal property used more than 50% of the time in performing a governmental function are exempt.

Purchases of tangible personal property to be resold in a taxable sales transaction are exempt.

The purchase must be invoiced directly to the library making the purchase. Purchases by employees who are later reimbursed by the library do not qualify for exemption.





Hotel Rooms and Meals

Because of the personal nature of hotel rooms and meals, these expenses are always considered to be for the consumer's private benefit.

Therefore, hotel rooms and meals never qualify as exempt expenses for an individual including library administrators or employees attending conventions or meetings away from home.

However, a library could rent a meeting room exempt from tax if it is used to conduct meetings or conferences related to the library's governmental functions.



Nonprofit Groups Supporting Libraries

Qualified nonprofit organizations which support public libraries with fundraising activities follow Indiana Sales Tax Information Bulletin #10.

To qualify, an organization must meet the definitions described in IC 6-2.5-5-21. Included are those organized for the following purposes.

Charitable
Literary
Scientific

Civic
Religious

Educational
Fraternal





Sales by Qualified Nonprofits: 30 Day Rule

Sales of tangible personal property carried on for 30 days or less in a calendar year in raising funds for the organization's nonprofit purpose are exempt.

Sales activities conducted for more than 30 days in a calendar year (not necessarily consecutive) are taxable.





Purchases by Nonprofits

Purchases of property used for the organization's nonprofit purpose are exempt.

Purchases for the private benefit of any member of the organization or for individuals, such as meals and lodgings, are not eligible for exemption.





Registering for Indiana Sales/Use Tax

All organizations required to collect sales tax must register with the Indiana Department of Revenue by filing form BT-1 at a district office or on-line at the INtax Indiana Tax Center:

<https://secure.in.gov/apps/dor/bt1/>

Nonprofits must also register with the nonprofit section of the Indiana Department of Revenue.





Questions

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Question 1.

Does a Friends of the Library organization have the same standing as the library itself?

The short answer is no. The library is an extension of the local government unit and the Friends of the Library is a not-for-profit organization.



Question 2.

Does the library need to collect state income tax if the library sells thumb drives, ear buds or blank DVDs to patrons for use in the computer lab?

No income tax is collected on sales of anything by the library. Any time the library buys thumb drives and ear buds for resale to the public they should register and collect state sales tax at 7%.





Question 3.

How about old computer equipment withdrawn from the library because it is no longer useful? Should it be donated to the Friends?

Any equipment withdrawn from use by the library can be disposed of without tax consequences. It can be donated or sold without charging sales tax to any buyer. (Sales tax applies to those items that are specifically purchased for resale).





Question 4.

In general how should libraries handle fund raising activities? Should such activities be run through Friends?

This is a local decision. Department of Revenue expresses no opinion on this matter.





Question 5.

Distinguish for us what libraries can do and what Friends of the Library can do?

Friends of the Library should perform those activities that are within its charter and its non-profit status. The library performs its function as a unit of government.



Question 6.

Can we have patrons buy books on our (library) discount? If the books are donated to library?

No. That is an abuse of the sales/use tax exemption.



Question 7.

Should library provide receipts for donations?

It is a good idea to provide receipts. The library does not list the value of donated items. The value of such items is determined by the donor.



Question 8.

When library makes purchase from out-of-state vendor who owes the sales tax?

Sales tax is not owed on such a transaction.





Question 9.

When a library sells old or donated library books every day, should tax be collected?

The books were not originally purchased to be resold, so no tax is due.





Question 10.

What about sales of coffee and drinks?

Whoever sells the coffee and drinks on library premises is required to collect sales tax.





Question 11.

What if the friends sell the coffee and snacks as a fundraiser for the library?

The coffee and snacks are taxable. Remember, the tax is being paid by the patron and not the library or the Friends.



Question 12.

Should those librarians who have traveled from a distant location for this meeting pay sales tax on the hotel rooms they stayed in last night?

Yes. Because staying in a hotel overnight does not further a government purpose for the library.





Question 13.

Does it matter if the library reimburses the librarian for the hotel bill?

This is a local decision. Department of Revenue expresses no opinion on this matter.



Web sites

Indiana Department of Revenue

www.in.gov/dor



Contact Us

Tax Policy

(317) 232-7282

Public Relations

Zachary Wade

(317) 232-2198

